

EXHIBIT 17

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

Case No. 3:17-cv-00939-WHA

WAYMO LLC,)
)
Plaintiff,)
)
v.)
)
UBER TECHNOLOGIES, INC.;)
OTTOMOTTO LLC;)
OTTO TRUCKING,)
)
Defendants.)

HIGHLY CONFIDENTIAL, ATTORNEYS' EYES ONLY

VIDEOTAPED DEPOSITION OF
JAKE NOCON
DATE TAKEN: DECEMBER 19, 2017

REPORTED BY:

PAUL J. FREDERICKSON, CCR, CSR

JOB NO. 2771324

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1 point, but I don't recall them specifically, 10:14:47
2 anything about them. 10:14:52

3 Q. Are you familiar with whether any 10:14:57
4 other surveillance was done of Waymo after this 10:15:01
5 2017 surveillance that you participated in? 10:15:05

6 A. I don't -- no, I don't recall 10:15:11
7 doing any, any other work regarding Waymo. 10:15:13

8 Q. Is this surveillance that you 10:15:17
9 participated in 2017 the only surveillance you 10:15:19
10 did of Waymo? 10:15:22

11 A. I believe so, yes. 10:15:24

12 Q. Did you do any other type of 10:15:27
13 investigation or research or work in connection 10:15:33
14 with Waymo at all? 10:15:38

15 A. In connection with Waymo? I'm not 10:15:43
16 sure. I -- I -- I don't recall Waymo 10:15:50
17 specifically. There was another instance where 10:15:51
18 we looked at a Google employee. I'm not sure 10:15:56
19 if there was a tie to Waymo or not. 10:16:00

20 Q. By the way, let me ask. Was there 10:16:02
21 a code name given to Waymo at all during your 10:16:04
22 surveillance activity? 10:16:07

23 A. There may have been. I don't 10:16:08
24 recall what it was. 10:16:15

25 Q. Okay. 10:16:15

1	designations with the specific intent of	11:52:43
2	preventing the discovery of devices, documents	11:52:45
3	and communications in anticipated litigation."	11:52:48
4	Do you see that?	11:52:50
5	A. Yes, I see that.	11:52:52
6	Q. Did you discuss ephemeral	11:52:55
7	communications with anyone on your trip to	11:52:57
8	Pittsburgh?	11:53:09
9	A. No, not that I recall.	11:53:09
10	Q. Did you discuss nonattributable	11:53:09
11	devices with anyone on your trip to Pittsburgh?	11:53:11
12	A. No, not that I recall.	11:53:13
13	Q. Did you discuss the use of the	11:53:15
14	attorney-client privilege designation on your	11:53:16
15	trip with anyone to Pittsburgh?	11:53:20
16	A. No, not that I recall.	11:53:22
17	Q. Do you recall when it was that --	11:53:23
18	when the actual launch of the Autonomous Group	11:53:37
19	was?	11:53:43
20	A. Like I mentioned previously, I	11:53:44
21	believe it was September.	11:53:46
22	[Sneeze.]	11:53:49
23	THE WITNESS: Bless you.	11:53:49
24	A. September of 2016.	11:53:50
25	Q. Did you receive any written	11:54:05

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1 So for purposes of identifying 13:20:18
2 yourself, to the extent that there were Uber 13:20:23
3 networks and non-Uber networks, you would -- 13:20:27
4 would categorize this sort of cloud service 13:20:31
5 device that you used to store your work product 13:20:34
6 as not an Uber system. 13:20:37

7 Did I understand that correctly? 13:20:41

8 A. Yes. It was misattributable and 13:20:45
9 not attributable to Uber. 13:20:46

10 Q. So how many of these separate 13:20:52
11 cloud storage systems are you aware of being in 13:20:56
12 existence? 13:21:01

13 A. Well, I'm only aware of one I 13:21:05
14 think. 13:21:08

15 Q. Are you aware of any other groups 13:21:08
16 utilizing a cloud storage system that would not 13:21:12
17 be part of the Uber network? 13:21:17

18 A. No, I'm not aware. 13:21:23

19 Q. So to the extent that there was a 13:21:24
20 cloud storage system that was not part of the 13:21:26
21 Uber network, the only one that you're familiar 13:21:29
22 with is the one that was used by your group at 13:21:31
23 Threat Operations? 13:21:35

24 A. I believe so, yes. 13:21:37

25 Q. Let me show you what's been 13:21:37

1 I thought I had answered it, you know, 13:47:54
2 to the best of my ability. 13:47:57

3 The -- the guidance that we were 13:47:59
4 given, the approvals that we were given, 13:48:02
5 you know, was obtained through -- 13:48:05
6 through legal. 13:48:06

7 BY MR. LYONS: 13:48:07

8 Q. Again, that doesn't -- that 13:48:07
9 doesn't answer my question or solve the problem 13:48:08
10 that we're having. I mean, you seem to be 13:48:11
11 equating any communication that you had with a 13:48:13
12 lawyer as being a privileged communication even 13:48:16
13 when you had just told them, I was going to go 13:48:19
14 to the bathroom. That doesn't necessarily 13:48:22
15 mean -- 13:48:25

16 A. No, that's not accurate. 13:48:25

17 MR. UMHOFFER: Objection. This is 13:48:27
18 getting argumentative. Can we figure 13:48:28
19 out a way to tone this down? 13:48:30

20 A. That -- that's not accurate. I do 13:48:32
21 not -- based on my understanding of, you know, 13:48:33
22 when I was instructed on the use of 13:48:39
23 attorney-client privilege, not all 13:48:43
24 communications with a lawyer are necessarily 13:48:45
25 privileged. 13:48:48

1 Q. And you received that instruction 13:48:48
2 from whom? 13:48:50
3 A. Craig Clark. 13:48:51
4 Q. Okay. 13:48:52
5 So Craig Clark made it clear to 13:48:52
6 you that not all communications with lawyers 13:48:54
7 are privileged? 13:48:56
8 MS. CHANG: Objection to the 13:48:57
9 extent it calls for a privileged 13:48:58
10 communication. 13:49:00
11 I caution the witness not to 13:49:00
12 disclose the substance of any privileged 13:49:02
13 communication. Mr. Clark, as you know, 13:49:05
14 is a lawyer, so you need to be very 13:49:06
15 careful in terms of the communications 13:49:09
16 that you had with Mr. Clark. 13:49:11
17 BY MR. LYONS: 13:49:14
18 Q. All right. 13:49:14
19 Let's -- why don't we get in some 13:49:14
20 exhibits here. We'll do it that way. 13:49:17
21 MR. LYONS: Let's mark this next 13:49:51
22 in order. 13:49:52
23 [Deposition Exhibit 9528 marked 13:49:54
24 for identification.] 13:49:56
25 BY MR. LYONS: 13:49:56

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1	to do that?	13:50:47
2	MS. CHANG: Objection to the	13:50:48
3	extent it calls for privileged	13:50:49
4	communication.	13:50:50
5	I caution the witness not to	13:50:51
6	disclose the substance of any privileged	13:50:52
7	communication.	13:50:55
8	A. I'm sorry, can you repeat the	13:51:01
9	question?	13:51:04
10	MR. LYONS: Let's have the	13:51:05
11	question read back.	13:51:06
12	[Discussion off the record.]	13:51:16
13	MR. LYONS: Here. I'll do it.	13:51:17
14	BY MR. LYONS:	13:51:17
15	Q. Did you ever have a conversation	13:51:18
16	with anyone at any point in time who told you	13:51:20
17	that you should add someone from legal to all	13:51:24
18	emails?	13:51:27
19	MS. CHANG: Objection to the	13:51:29
20	extent it calls for privileged	13:51:29
21	communication.	13:51:31
22	I caution the witness not to	13:51:31
23	disclose the substance of any privileged	13:51:32
24	communication.	13:51:35
25	A. No, I never had a conversation	13:51:39

1 where somebody told me to add an attorney to 13:51:40
2 all emails. 13:51:42

3 Q. Did they ever tell you to 13:51:42
4 add -- did you ever have a conversation with 13:51:44
5 anyone who told you that you should add 13:51:46
6 attorney-client privilege to any email? And 13:51:49
7 that's a yes-or-no question. 13:51:51

8 MS. CHANG: Same objection. 13:51:52

9 BY MR. LYONS: 13:51:52

10 Q. And just to be clear, yes or no? 13:51:56
11 This does not call for privileged 13:51:57
12 communication. 13:52:00

13 Did you have a conversation with 13:52:00
14 anyone at any time who told you to add 13:52:02
15 attorney-client privilege to any email? 13:52:05

16 MS. CHANG: Same caution. 13:52:07

17 A. I can't recall. 13:52:13

18 Q. Did you ever have a conversation 13:52:14
19 with anyone at any time who ever told you to 13:52:15
20 add the term "attorney-client privilege" to any 13:52:18
21 document? 13:52:21

22 MS. CHANG: Same -- same caution. 13:52:24

23 A. I can't recall any specific 13:52:32
24 instances. 13:52:34

25 Q. You know as a former law 13:52:34

1 enforcement officer that you should not 13:52:37
2 identify documents as attorney-client privilege 13:52:38
3 that are not, in fact, attorney-client 13:52:40
4 privileged communications, do you? 13:52:43

5 A. No, I don't recall receiving that 13:52:46
6 training as a law enforcement officer. 13:52:48

7 Q. Let me just -- so that the record 13:52:49
8 is clear, is it your testimony that you are not 13:52:52
9 aware that it is inappropriate to designate 13:52:54
10 documents as attorney-client privilege that you 13:52:57
11 know to not be attorney-client privilege? 13:52:59

12 MS. CHANG: Objection, misstates 13:53:03
13 prior testimony, vague and ambiguous, 13:53:04
14 calls for a legal conclusion. 13:53:06

15 A. That wasn't your question. You 13:53:10
16 asked me as a law enforcement officer if I 13:53:11
17 knew. I don't recall getting that training as 13:53:14
18 a law enforcement officer. But during my time 13:53:16
19 at Uber, I do recall having -- getting a 13:53:18
20 presentation from Craig Clark where it did talk 13:53:22
21 about not marking documents inappropriately. 13:53:25

22 Q. Is it your understanding that -- 13:53:32
23 well, let me ask it this way. If I understood 13:53:34
24 you correctly, you do not have a recollection 13:53:39
25 of anyone ever telling you to add 13:53:41

1	attorney-client privilege to any document. Did	13:53:44
2	I understand that testimony correctly?	13:53:46
3	MR. UMHOFFER: Objection, misstates	13:53:49
4	prior testimony.	13:53:50
5	MS. CHANG: Join in the objection.	13:53:50
6	A. I don't recall what I said	13:53:58
7	previously, but I can't remember any specific	13:54:00
8	instances where somebody directed me to add	13:54:04
9	that to a document.	13:54:06
10	Q. I'm looking at the -- the realtime	13:54:08
11	testimony. It says:	13:54:10
12	"Did you ever have a conversation	13:54:11
13	with anyone at any time who ever told you to	13:54:13
14	add the term 'attorney-client privilege' to any	13:54:16
15	document?"	13:54:18
16	And your answer was:	13:54:19
17	"I can't recall any specific	13:54:19
18	instances."	13:54:21
19	Is that a truthful response to the	13:54:22
20	question?	13:54:24
21	A. Yes.	13:54:24
22	Q. Okay.	13:54:24
23	So as you sit here right now, you	13:54:26
24	have no recollection of being told to do that?	13:54:28
25	A. In a specific instance, no, I	13:54:38

1 can't -- I can't recall. 13:54:39

2 Q. Do you have a general recollection 13:54:41
3 of ever being told that? 13:54:42

4 A. I have a general recollection of 13:54:43
5 being told that if on projects that were being 13:54:45
6 done, you know, at -- at a lawyer's direction 13:54:49
7 and under their guidance that, yes, that it 13:54:51
8 should be marked. 13:54:54

9 Q. And is it -- was it your 13:54:54
10 understanding that everything that you did was 13:54:55
11 at a lawyer's direction? 13:55:00

12 A. That is not accurate. 13:55:01

13 Q. What wasn't at a lawyer's 13:55:02
14 direction? What tasks did you perform that you 13:55:04
15 believed were not at a lawyer's direction in 13:55:06
16 the work that you did at Uber? 13:55:08

17 A. I -- there's a lot of things. 13:55:10

18 Q. I got some time. 13:55:15

19 A. General, you know, administrative 13:55:20
20 emails. Working on things that, you know, were 13:55:22
21 outside of our -- our tasks as far as 13:55:26
22 collections. You know, to say that I, you 13:55:29
23 know, marked everything attorney-client 13:55:35
24 privilege carte blanche is just inaccurate. 13:55:37

25 Q. Well, that's not what I'm saying 13:55:40

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1	get a sense of when you would claim something	13:56:32
2	was at the direction of a lawyer and when it	13:56:37
3	wasn't. Because it sounds like you said you	13:56:39
4	had to get approval for all	13:56:43
5	information-gathering projects you worked on.	13:56:45
6	A. That is correct.	13:56:48
7	Q. So if you had to get approval from	13:56:49
8	a lawyer for all information-gathering	13:56:51
9	projects, how did you in your mind make a	13:56:53
10	decision as to when a document or memo or email	13:56:55
11	that you wrote was not going to be designated	13:56:58
12	as attorney-client privileged? Because you've	13:57:01
13	already gotten the direction from a lawyer.	13:57:04
14	A. Right.	13:57:07
15	Q. So if you got the -- the direction	13:57:07
16	from a lawyer and you got the lawyer's approval	13:57:09
17	to perform some investigation collection or	13:57:12
18	evidence collection or information collection,	13:57:17
19	was it your practice then that everything that	13:57:21
20	you did as a result of that approval was marked	13:57:23
21	privileged?	13:57:26
22	A. No.	13:57:26
23	Q. So when wasn't it? And what	13:57:27
24	activities would you perform, investigative	13:57:30
25	collection, intelligence collection or any	13:57:33

1 correct? 13:58:41

2 A. Yes. For the documents that are 13:58:46
3 generated for that specific project, yes. 13:58:47

4 Q. And all -- is it your testimony 13:58:49
5 that all documents that were generated as a 13:58:51
6 result of that project were privileged? 13:58:54

7 A. I don't believe that I marked 13:59:01
8 every single document as privileged. 13:59:02

9 Q. That wasn't my question. I don't 13:59:04
10 care whether you marked it or not. 13:59:05

11 A. Yeah. 13:59:07

12 Q. My question is whether you are 13:59:08
13 taking the position that every time you did 13:59:10
14 something or generated a document after having 13:59:12
15 received an approval from a lawyer to perform a 13:59:14
16 particular investigative task, that that was 13:59:18
17 privileged. 13:59:20

18 MR. UMHOFFER: Objection, calls for 13:59:20
19 a legal conclusion. 13:59:22

20 A. I don't know. I don't know if -- 13:59:25
21 I guess I just don't understand the question. 13:59:26

22 Q. Okay. 13:59:28

23 Well, I'll -- let's -- let's ask 13:59:28
24 it differently. 13:59:30

25 Is it your testimony that all 13:59:34

1 Q. And whether you recall sending 14:21:04
2 them or not, would it have been your practice, 14:21:05
3 after getting approval from a lawyer to conduct 14:21:08
4 surveillance, to mark email communications 14:21:11
5 about that surveillance as attorney-client 14:21:14
6 privileged? Would that have been your 14:21:17
7 practice? 14:21:19

8 A. If it was about logistics between 14:21:23
9 me and my team members, probably not, no. 14:21:25

10 Q. Why not? 14:21:28

11 A. Because -- 14:21:29

12 Q. Isn't logistics part of the 14:21:30
13 direction by your lawyer to conduct the 14:21:32
14 surveillance? Wouldn't that have been part of 14:21:33
15 the task that you received approval for? 14:21:36

16 MR. UMHOFFER: Objection, compound. 14:21:39

17 A. I wouldn't have viewed it that way 14:21:41
18 if I was emailing my colleague to say, you 14:21:43
19 know, "Meet me at the airport. I get in at 14:21:46
20 whatever time." I -- I don't see that. You 14:21:49
21 know, if I had to email Craig because I had a 14:21:51
22 question, you know, about the particular 14:21:54
23 operation or was looking for guidance on 14:21:57
24 something, then, yes, that would be -- that 14:21:59
25 would have been marked. 14:22:02

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1	Q.	So that was -- but that	14:22:03
2		you -- that was a conversation with Craig. So	14:22:04
3		he was a lawyer, wasn't he?	14:22:05
4	A.	My understanding he still is.	14:22:09
5	Q.	So a conversation with your lawyer	14:22:11
6		specifically about getting legal advice, I	14:22:13
7		don't think anyone is arguing about whether	14:22:16
8		that's privileged or not.	14:22:18
9	A.	Correct. But you asked me whether	14:22:18
10		or not I marked specific emails. And if I was	14:22:20
11		communicating back and forth with Craig, then	14:22:22
12		yes. But if I was communicating to work on	14:22:25
13		logistics with, you know, members of my team,	14:22:28
14		then no, I don't recall marking those. I don't	14:22:31
15		recall marking those anything privileged.	14:22:35
16	Q.	Well, you can -- it would not have	14:22:37
17		been your expectation that those would, in	14:22:39
18		fact, be privileged?	14:22:41
19	A.	I --	14:22:42
20		MR. UMHOFFER: Objection, calls for	14:22:43
21		a legal conclusion.	14:22:45
22	A.	I don't know. I'm not a lawyer.	14:22:45
23	Q.	But wouldn't -- regardless of	14:22:47
24		whether you're a lawyer, it would not have been	14:22:48
25		your expectation that communications about	14:22:51

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1	communications with your coworkers?	14:23:42
2	A. Sure. Yes.	14:23:43
3	Q. Now, looking at Mr. Kalanick's	14:23:45
4	email here, though, he makes a	14:23:47
5	slightly different -- takes a slightly	14:23:50
6	different approach. He says:	14:23:52
7	"Add someone from legal to all of	14:23:53
8	these emails and presentations and add language	14:23:56
9	about attorney-client privilege to all	14:23:57
10	documents."	14:23:59
11	Do you see that?	14:24:00
12	A. Sure. Yes, I do.	14:24:01
13	Q. Now, did you ever have a	14:24:09
14	conversation with anyone who suggested that you	14:24:11
15	should add a lawyer to an email so that you	14:24:14
16	could claim that the email was privileged?	14:24:18
17	MR. UMHOFFER: Objection, asked and	14:24:21
18	answered.	14:24:21
19	A. I don't recall that.	14:24:23
20	Q. Did you ever receive that	14:24:24
21	instruction?	14:24:25
22	MR. UMHOFFER: Same objection.	14:24:26
23	A. No, I do not recall that.	14:24:29
24	Q. Did you think it was appropriate	14:24:31
25	to add someone from legal for the purpose of	14:24:32

1 claiming privilege? 14:24:36

2 A. In what instance? 14:24:38

3 Q. Did you ever have an instance 14:24:41

4 where you were told that if you added someone 14:24:43

5 to legal, you could claim privilege to that 14:24:48

6 communication even if you were not seeking 14:24:50

7 legal advice from that person? 14:24:52

8 A. I don't recall that, no. 14:24:55

9 Q. Did you know that it was improper 14:24:59

10 to add someone from legal to an email for the 14:25:00

11 sole purpose of claiming privilege when you 14:25:03

12 were not seeking legal advice for that person? 14:25:05

13 A. Yeah. That was part of Craig's 14:25:08

14 presentation, yes. 14:25:10

15 Q. So looking at Mr. Kalanick's email 14:25:11

16 here, you would agree that if the purpose of 14:25:13

17 the email was not to seek legal advice, that 14:25:16

18 would be inappropriate to add someone from 14:25:20

19 legal for the purpose of claiming 14:25:22

20 attorney-client privilege? 14:25:25

21 MR. UMHOFFER: Objection, calls for 14:25:26

22 a legal conclusion. 14:25:28

23 MS. CHANG: Join in the objection. 14:25:28

24 A. I don't know what Travis -- 14:25:31

25 Mr. Kalanick was intending with this email, and 14:25:35

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1 a communication with him in his capacity as a 14:39:08
2 lawyer, that that communication could be marked 14:39:12
3 attorney-client privilege; correct? 14:39:15

4 A. I'm sorry. Can you repeat your 14:39:18
5 question? 14:39:19

6 Q. You understood that if you had a 14:39:19
7 communication with him in his capacity as a 14:39:21
8 lawyer, that that communication would be marked 14:39:23
9 attorney-client privileged? 14:39:25

10 A. Yes. Based on the information 14:39:30
11 contained in -- that he presented in this, that 14:39:31
12 if we were seeking legal advice or legal 14:39:34
13 guidance, that the -- yes, that would be 14:39:37
14 privileged. Whether or not that we had marked 14:39:40
15 a document for that, I -- I don't know. 14:39:42

16 Q. Okay. 14:39:42
17 So you understood -- just so that 14:39:45
18 I'm -- I'm clear, you understood that by 14:39:48
19 marking something attorney-client privilege, 14:39:51
20 that it could be protected from disclosure. 14:39:54

21 Did you understand that? 14:39:59

22 A. Yes. That was part of the 14:40:01
23 presentation. 14:40:02

24 Q. Okay. 14:40:02

25 And certainly as it relates to 14:40:03

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1 communications with Mr. Clark, you understood 14:40:05
2 that if communications with him were marked as 14:40:07
3 attorney-client privileged, they could be 14:40:12
4 protected from disclosure? 14:40:13

5 A. If they were seeking legal advice 14:40:15
6 or guidance, yes. 14:40:17

7 Q. Okay. 14:40:18

8 And so to the extent that 14:40:21
9 Mr. Clark had communications with people 14:40:23
10 seeking legal advice or legal guidance, as long 14:40:25
11 as the communication was marked attorney-client 14:40:30
12 privilege, it would be subject from 14:40:32
13 disclosure -- excuse me, it would be protected 14:40:35
14 from disclosure. 14:40:37

15 You understood that? 14:40:38

16 A. So I don't -- I'm not sure. I'm 14:40:42
17 not sure I'm understanding your question 14:40:47
18 properly. 14:40:48

19 Q. Well, I guess maybe I'm -- maybe 14:40:50
20 I'm -- I'm trying to understand if -- if 14:40:51
21 Mr. Clark's legal advice and guidance was 14:40:56
22 protected from disclosure, what was the basis 14:41:01
23 for his preference to have telephone 14:41:03
24 conversations? Because the written 14:41:05
25 communications would also be protected from 14:41:08

1 issues at the company. 14:52:57

2 Q. Did Mr. Clark ever coach you on 14:53:33

3 how to use the attorney-client privilege to 14:53:36

4 ensure that sensitive intelligence collection 14:53:39

5 activities would not surface in litigation? 14:53:43

6 A. No, I don't recall that. 14:53:50

7 Q. Are you familiar with something 14:53:51

8 called the Lawyer Dog meme? 14:54:07

9 A. Yes, from the presentation that 14:54:11

10 you showed previously. 14:54:13

11 Q. Do you recall ever receiving any 14:54:14

12 email or other document containing the Lawyer 14:54:16

13 Dog meme? 14:54:20

14 A. I don't know if I received it or 14:54:24

15 not. 14:54:26

16 Q. Did Mr. Clark provide any handouts 14:54:29

17 when he gave this presentation? 14:54:31

18 A. I don't recall that. 14:54:36

19 Q. Did you ever come across a 14:54:37

20 document at Uber that was marked "Draft" even 14:54:52

21 though you believed it was a final version? 14:54:55

22 A. I -- no, I'm not sure. I don't 14:55:11

23 think so. 14:55:11

24 Q. This email says if you -- uses the 14:55:11

25 phrase "if you prefer not to write/retain 14:55:34

1	requesting devices; correct?	15:23:29
2	A. That's correct.	15:23:31
3	Q. And with regard to the information	15:23:32
4	in the cloud, did you give them that	15:23:34
5	information as well?	15:23:36
6	A. No, I didn't have it.	15:23:37
7	Q. Okay.	15:23:39
8	Did you tell them that it existed?	15:23:39
9	A. I don't recall what I told them.	15:23:44
10	MS. CHANG: Counsel, when you're	15:23:46
11	at a good stopping point, we've been	15:23:52
12	going over an hour.	15:23:54
13	MR. LYONS: Okay. Sure. Let's	15:23:55
14	take a break.	15:23:58
15	THE VIDEOGRAPHER: It's 3:23.	15:23:59
16	We're going off the record.	15:24:02
17	[Recess at 3:23 p.m.]	15:24:03
18	[Resuming at 3:44 p.m.]	15:34:42
19	THE VIDEOGRAPHER: We are back on	15:44:48
20	the record, and it's 3:44.	15:44:50
21	EXAMINATION CONTINUING	15:44:53
22	BY MR. LYONS:	15:44:53
23	Q. So we were talking about Ric	15:44:54
24	Jacobs earlier. Did he ever express to you any	15:45:00
25	concern about the use of ephemeral	15:45:06

1 communications or nonattributable devices? 15:45:09

2 A. No, I don't recall having 15:45:15

3 conversations with him about that. 15:45:16

4 Q. Did he ever express any concern to 15:45:18

5 you about the use of improper privilege 15:45:20

6 designations? 15:45:25

7 A. I do not recall him expressing 15:45:26

8 that to me. 15:45:29

9 Q. Did he ever express to you any 15:45:29

10 concerns about the use of "Draft" designations 15:45:32

11 or documents designated as "Draft"? 15:45:35

12 A. No, I don't recall that. 15:45:40

13 Q. Did he ever express any concern 15:45:42

14 about Uber engaging in theft of trade secrets? 15:45:44

15 A. No. 15:45:44

16 Q. Did he ever express any concern 15:45:50

17 about Uber trying to evade its obligations to 15:45:53

18 produce documents in discovery? 15:45:55

19 A. No, I don't recall him expressing 15:46:01

20 that. 15:46:03

21 Q. Did he ever express any concern 15:46:07

22 about people hiring -- excuse me, about Uber 15:46:08

23 hiring people to support the ATG group who are 15:46:11

24 kept off of ATG's books? 15:46:16

25 A. I don't recall hearing him say 15:46:20

1	that at Uber?	15:50:45
2	A. No.	15:50:45
3	Q. And you have no knowledge as to	15:50:46
4	whether that allegation is true or not?	15:50:47
5	A. I don't know.	15:50:49
6	Q. All right. I'm going to show you	15:50:50
7	what's been previously mark as 9075.	15:51:10
8	[Document passed to the witness.]	15:51:13
9	BY MR. LYONS:	15:51:36
10	Q. So there's an email at the bottom	15:51:36
11	here from Mat Henley to [REDACTED] dated	15:51:40
12	June 21 of this year.	15:51:44
13	Do you recall ever seeing this	15:51:48
14	email before?	15:51:50
15	A. Yes, sir.	15:51:50
16	Q. When was the first time you saw	15:51:51
17	this email?	15:51:53
18	A. I believe that I was -- yeah, I	15:51:54
19	was cc'd on it when it went out.	15:51:58
20	Q. Did you have any involvement in	15:52:01
21	drafting the email?	15:52:03
22	A. Yes, sir.	15:52:04
23	Q. And what was your involvement in	15:52:05
24	drafting the email?	15:52:07
25	A. I believe that we saw a rough	15:52:13

1	draft of it.	15:52:15
2	Q. Who drafted the email originally?	15:52:16
3	A. I don't know.	15:52:20
4	Q. Okay.	15:52:20
5	But you -- you saw a rough draft.	15:52:21
6	How did you see the rough draft?	15:52:23
7	A. I don't remember.	15:52:25
8	Q. Did you provide any comments	15:52:27
9	regarding the rough draft?	15:52:29
10	A. I don't recall.	15:52:31
11	Q. Did you talk to anyone about the	15:52:35
12	rough draft?	15:52:39
13	A. I -- likely. I don't remember any	15:52:45
14	of the specific conversations.	15:52:48
15	Q. You didn't draft the email	15:52:49
16	yourself -- excuse me, you didn't draft	15:52:51
17	the -- the rough version of this yourself?	15:52:53
18	A. No, sir.	15:52:55
19	Q. So if you turn the page and you	15:52:56
20	look at the bottom of the email, it appears	15:53:08
21	that Mr. Henley has signed this on behalf of	15:53:10
22	Craig Clark, Nick Gicinto, yourself and Ed	15:53:15
23	Russo; right?	15:53:19
24	A. Yes, sir.	15:53:20
25	Q. Do you recall any discussions	15:53:21

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1 about Mr. Henley signing on behalf of you as 15:53:22
2 individuals? 15:53:29

3 A. Yes, I was aware that he was going 15:53:30
4 to sign on my behalf. 15:53:32

5 Q. Okay. 15:53:33

6 And what did you understand the 15:53:34
7 purpose of the email to be? 15:53:35

8 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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15:58:46

C E R T I F I C A T E

I, PAUL J. FREDERICKSON, CA
Certified Shorthand Reporter No. 13164 and
WA Certified Court Reporter No. 2419, do
hereby certify:

That prior to being examined,
the witness named in the foregoing
deposition was by me duly sworn or affirmed
to testify to the truth, the whole truth and
nothing but the truth;

That said deposition was taken
down by me in shorthand at the time and
place therein named, and thereafter reduced
to print by means of computer-aided
transcription; and the same is a true,
correct and complete transcript of said
proceedings.

I further certify that I am not
interested in the outcome of the action.

Witness my hand this 20th day
of December 2017.



PAUL J. FREDERICKSON, CCR, CSR

WA CCR 2419 CA CSR 13164

Expiration date: March 31, 2018